

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMENDMENT NO.** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**AMEND Senate Bill No. 429\***

**House Bill No. 436**

by deleting everything after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 30-2-101, is amended by adding the following language as subsection (d):

(d) Any action to set aside the property designated in this section shall be brought within the time limits set by § 31-4-102.

SECTION 2. Tennessee Code Annotated, Section 30-2-102, is amended by adding the following language as subsection (g):

(g) Any action to set aside the property designated in this section shall be brought within the time limits set by § 31-4-102.

SECTION 3. Tennessee Code Annotated, Section 30-2-204, is amended by designating the current language as subsection (a) and by adding the following language as subsection (b):

(b) Any action to set aside the property designated in this section shall be brought within the time limits set by § 31-4-102.

SECTION 4. Tennessee Code Annotated, Section 30-2-418(d), is amended by deleting the words "appraisals of two (2) real estate appraisers" and by substituting the words "appraisal of one (1) qualified real estate appraiser".

SECTION 5. Tennessee Code Annotated, Section 30-2-603, is amended by deleting the words and punctuation "and resident within the personal representative's county, or the agent or attorney of such as reside elsewhere," and by deleting the comma "," after the word "same" and by substituting a period "." after the word "same" when it appears the second time in the first sentence and by deleting the remainder of the first sentence.

**\*96928675\***

**\*002891\***

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 429\***

**House Bill No. 436**

SECTION 6. Tennessee Code Annotated, Section 30-5-104(b), is amended by deleting the word “and” between the words “representative” and “to”; placing a comma “,” after the word “objection” and adding “and to all claiming creditors.” at the end of the section.

SECTION 7. Tennessee Code Annotated, Title 34, Chapter 6, Part 1, is amended by adding the following new section:

Gifts under Power of Attorney. (a) If any power of attorney or other writing: (1) Authorizes an attorney-in-fact or other agent to do, execute or perform any act that the principal might or could do; or

(2) Evidences the principal's intent to give the attorney-in-fact or agent full power to handle the principal's affairs or to deal with the principal's property, then the attorney-in-fact or agent shall have the power and authority to make gifts, in any amount, of any of the principal's property, to any individuals, or to organizations described in §§ 170(c) and 2522(a) of the Internal Revenue Code or corresponding future provisions of the federal tax law, or both in accordance with the principles and personal history of making or joining in the making of lifetime gifts. This section shall not in any way limit the right or power of any principal, by express words in the power of attorney or other writing, to authorize, or limit the authority of, any attorney-in-fact or other agent to make gifts of the principal's property.

(b) If the provisions of paragraph (a) above do not apply, an attorney-in-fact or other agent acting under a durable general power of attorney or other writing may petition a court of the principal's domicile for authority to make gifts of the principal's

**\*96928675\***

96928675

**\*002891\***

\*00289117\*

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 429\***

**House Bill No. 436**

property to the extent not inconsistent with the express terms of the power of attorney or other writing. The court shall determine the amounts, recipients and proportions of any gifts of the principal's property after considering all relevant factors including, without limitation:

(1) the value and nature of the assets of the principal's estate; (2) The principal's foreseeable obligations and maintenance needs; (3) The principal's existing estate plan; and (4) The gift and estate tax effects of the gifts.

(c) This act is declaratory of existing law in the state of Tennessee, provided that this act shall not be construed as authorizing the refund of any taxes imposed by Title 67, Chapter 8.

SECTION 8. Tennessee Code Annotated, Section 34-11-114, is amended by designating the present language as subsection (a) and by adding the following as a new subsection (b):

(b) Notwithstanding the provisions of subsection (a), if a petition for a standby fiduciary is filed pursuant to Tennessee Code Annotated, Section 34-11-119(c), and regardless of whether a standby fiduciary is appointed, the costs of the action shall be charged against the petitioner.

SECTION 9. Tennessee Code Annotated, Section 34-11-119, is amended by adding the following new subsection (c):

(c) Although there is no current need for the services of a fiduciary:

**\*96928675\***

96928675

**\*002891\***

\*00289117\*

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMENDMENT NO.** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**AMEND Senate Bill No. 429\***

**House Bill No. 436**

(1) the custodial parent or parents or the person designated by the custodial parent or parents of a minor child or children may petition in accordance with Chapter 12; or

(2) any adult for himself or herself may petition in accordance with Chapter 13 of this title for the appointment of a standby fiduciary. The standby fiduciary authorized by this subsection may be appointed without the necessity of the appointment of a fiduciary. The court shall respond to the petition as though it were a petition for the appointment of a currently active fiduciary so that all questions concerning the appropriateness of the proposed fiduciary or the property management plan are resolved at the hearing on the petition, which action will minimize delay in activating the standby fiduciary when necessary. If appointed, the court shall define in the order of appointment the circumstances under which the standby fiduciary shall become an active fiduciary and the actions which the standby fiduciary shall take to notify the court of the need for the standby fiduciary to become active. If the court determines there is a need for an active fiduciary, the court shall issue an order authorizing the standby fiduciary to function which order shall contain such other authority or restriction, consistent with chapters 11, 12 and 13 of this title, as the court determines is in the best interest of the minor or disabled person. In considering a petition for the appointment of a standby fiduciary, the court shall try to minimize the costs to the petitioner to the extent the court determines it is in the best interest of the minor or the potentially disabled person.

**\*96928675\***

96928675

**\*002891\***

\*00289117\*

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 429\***

**House Bill No. 436**

SECTION 10. Tennessee Code Annotated, Section 34-11-120, is amended by adding the word and punctuation “spouse,” after the word and punctuation “parent,” and before the word “child” in the second sentence.

SECTION 11. Tennessee Code Annotated, Section 35-50-119, is amended by deleting the first word of the first sentence and inserting “Unless waived in the trust instrument, the” and is further amended by deleting the word “a” between the words “of” and “trust” in the first sentence and by substituting instead the words “an irrevocable”.

SECTION 12. Tennessee Code Annotated, Section 35-50-122(b), is amended by inserting the words “or more” between the number “(2)” and the word “separate” and between the number “(1)” and the word “trust”; by changing the word “trust” after the number “(1)” to “trusts”; by deleting the words “a second trust” between the words “and” and “entirely” and by inserting instead the language “one (1) or more trusts”.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.

**\*96928675\***

96928675

**\*002891\***

\*00289117\*